

The Office, citing PCT Rule 13.1, contends that Groups I and II not relate to a single general inventive concept and lack the special technical feature. The Office contends that the process of Group II is not specially adapted or required because the claimed products "can be obtained by traditional fermentation of a mutated micro organism." However, the Office has merely stated a conclusion and has not shown how the "traditional fermentation of a mutated micro organism" can be used to obtain the claimed product. Accordingly, Applicants respectfully submit that the Requirement for Restriction is unsustainable, and it should therefore be withdrawn.

Further, in regards to Groups I-II, the Office states that these Groups lack the special technical feature. Applicants note that the Office has failed to follow MPEP guidelines for making a lack of unity of invention requirement between restricted Groups. MPEP §1893.03(d) states:

"When making a lack of unity of invention requirement, the Examiner must (1) list different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group."

The Office has not specifically pointed out in the reference why each group lacks unity with each other group to justify the conclusion of a lack of unity of invention. The Office states that "microorganisms are known that can possess the required amount of γ -glutamylcysteine and glutathione." Seemingly to support this assertion, the Examiner cites JP 04066069; however, the Examiner has not provided any evidence that this reference supports the Office's conclusion. Therefore, the Office has made an unsupported conclusion. Accordingly, Applicants respectfully submit that the Requirement for Restriction is unsustainable, and it should therefore be withdrawn.

In addition, Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons

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and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants further traverse the Requirement for Restriction on the additional ground that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction. Withdrawal of the Requirement for Restriction is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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